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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,857	09/23/2005	Claudio Zampieri	2005_1196A	4778
513 7590 04/23/2008 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021				
EXAMINER				
COLLADO, CYNTHIA FRANCISCA				
ART UNIT		PAPER NUMBER		
3618				
MAIL DATE		DELIVERY MODE		
04/23/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,857

Applicant(s)

ZAMPIERI, CLAUDIO

Examiner

CYNTHIA F. COLLADO

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/26/2006 has been entered.

Response to Amendment

Applicant submitted an amendment dated January 30, 2008, wherein claims 1-4 and 6 are cancelled. Claims 5 and 7 are amended. The affidavit under 37 CFR 1.132 filed 1/30/2008 is sufficient to overcome the rejection of claim 5 based upon the 100 mm big wheel concept.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borel (US Patent No 2001/0013695) in view of Hilgarth (US Patent No.6, 015,157)

Regarding claim 5, Borel discloses a footwear having a sole on the bottom thereof, the sole having a heel-piece zone (fig 4, element 26) and a toe juncture area corresponding to an area of a foot where the toes of the foot join the foot (fig 4, element 26), a chassis supporting at least four wheels including a front wheel and a second wheel immediately behind said front wheel, said front wheel and said second wheel being located in a front zone of said chassis (fig 1), at least first (fig 4, element 27) and second binding points on the sole attaching for attachment of the sole to the chassis (fig 4, element 27), the first binding point being positioned in proximity of the heel-piece zone of the sole (fig 4, element 27), and the second binding point being positioned approximately in the a-toe juncture area of said sole (fig 4, elements 27 and 28), fasteners for-joining the footwear to the chassis at the first and second binding points (fig 4, elements 22, 24 and 29), the second binding point being located between the front wheel and the second wheel (fig 4, element 27), and wherein a center to center distance between said first and second binding points is between 170 mm and 210 mm (col 3, paragraph 0045) states that each boot size should receive a frame size corresponding perfectly thereto regardless of the size or the sizing standard used. Borel lacks the teaching of at least four wheels having a diameter of at least 100 mm. Hilgarth discloses wheels having a diameter of between 90mm-120mm in column 7, lines 37-40. Based on the teaching of Hilgarth, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the skate of Borel to include wheels with 100mm diameter as in Hilgarth so as to allow the user to maintain substantially optimum skating conditions. The claim would have been obvious because the substitution of one known element for another would

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have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Regarding claim 7, the skate of modified Borel or Hilgarth discloses wherein the center to center distance between the first and second binding points is 195 mm (Borel, column 1, paragraph 0007) states that the center distance is not constant and varies from about 140mm-210mm.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CYNTHIA F. COLLADO whose telephone number is (571)272-8315. The examiner can normally be reached on mon-fri 6-2.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Ellis/
Supervisory Patent Examiner, Art
Unit 3618

CFC

/Cynthia F Collado/

Examiner, Art Unit 3618